(49)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 2552 of 2006

PETITIONER Ku. Kaushilya Mannewar,
D/o. Shri Laxmi Prasad Mannewar,
Aged about 20 Years, R/o. Bhairav Nagar, Mathepurena Raipur, C.G.

Vs.

RESPONDENTS

1. State of Chhattisgarh,
Through the Secretary,
Department of Adim Jati Thatha Anusuchit Jati Vikas, D.K.S. Bhawan Raipur (C.G.)

2. Member, Secretary and Commissioner,
Jati Praman Patra Uchha Estariya Chhanbin Samiti, Pt. Ravishanker Vishwavidalaya Parisar, Raipur, C.G.

3. Dean,
Chhattisgarh Ayurvigyan Sansthan,
District Bilaspur, C.G.

Present: Shri Satyendra Sahu, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for respondent No.1.
Shri Ashish Shrivastava, learned counsel for respondent No. 3.

ORAL ORDER
(Passed on 11th September, 2006)

On an earlier occasion the petitioner had instituted writ petition No.5836 of 2005 complaining that the Caste Scrutiny Committee without giving him opportunity cancelled the caste certificate certifying that the petitioner belongs to Mannewar Tribe which tribe is Scheduled Tribe. The Court finding merit in the said contention by its order dated 31.03.2006 disposed of the writ petition set aside the order of the Caste Scrutiny Committee dated 23.09.2005. It appears that on the basis of the order of the Caste Scrutiny Committee dated 23.09.2005, the third respondent

herein had passed an order on 24.09.2005, marked as Annexure-P/4 in this writ petition, canceling the admission granted to the petitioner to the First Year MBBS course. In fact, in W.P. No.5836 of 2005 that order of the third respondent was also challenged, but, learned counsel for the petitioner did not press that prayer at the time of final hearing. It appears that after the above order was passed by this Court on 31.03.2006 in W.P. No.5836 of 2005, the third respondent did not recall his order dated 24.09.2005 canceling the admission of the petitioner to the First Year MBBS Course. When the matter rested at that stage, the present writ petition is filed initially for a direction to the third respondent to give provisional admission to the petitioner. On an earlier occasion, when it was pointed out to the learned counsel for the petitioner that he did not challenge the order of the third respondent dated 24.09.2005, he filed an application (I.A. No.8160 of 2006) to amend the writ petition so as to seek quashing of the order of the third respondent dated 24.09.2005. That application was allowed by this Court by its order dated 29.08.2006.

(2) Having heard learned counsel for the parties, I do not think that the Court would be justified in directing the third respondent to give provisional admission to the petitioner during the present academic session. It is because, this Court did not decide the issue relating to the caste status of the petitioner on merit. Whether the petitioner belongs to Scheduled Tribe or not should be first decided by the High Power Caste Verification Committee after giving reasonable opportunity to the petitioner to have his say in the matter and after such investigation and enquiry. Unless it is held that the petitioner belongs to the scheduled tribe, directing the third respondent to provide admission to the First Year MBBS Course would not arise.

(3) In the result and for the foregoing reasons, the order (Annexure-P/4) made by the third respondent dated 24.09.2005 is set aside on the ground that that order was passed by the third respondent on the basis of the order of the Caste Scrutiny Committee dated 23.09.2005 which is already quashed. It is now open to the High Power Caste Verification Committee to proceed further and take a decision on the issue of the caste status of the petitioner after giving her fair opportunity to adduce evidence and of being heard and, thereafterwards, the third respondent depending upon the outcome of the enquiry of the State High Power Caste Verification Committee to decide whether the petitioner should be given admission or not. The writ petition is disposed of in the above terms. No costs.

Sd/-
Chief Justice